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September 5, 1995

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VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

~~DO NOT WRITE~~

Re: MM Docket No. 95-106
RM-8655
FM Table of Allotments
Hayden, Colorado

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Enclosed for filing, on behalf of 1530, LLC, are an original and four copies of its "COMMENTS AND COUNTERPROPOSAL" with respect to the above-referenced Notice of Proposed Rule Making.

Please direct responsive communications to the undersigned at the New York office of this firm.

Very truly yours,


Jerome S. Boros

Enclosures (5)

cc: All Persons on Attached List I - w/encl.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
) MM Docket No. 95-106
Amendment of Section 73.202(b),)
Table of Allotments,) RM-8655
FM Broadcast Stations)
(Hayden, Colorado))

To: Chief, Allocations Branch
Mass Media Bureau

DOCKET FILE COPY ORIGINAL

COMMENTS AND COUNTERPROPOSAL

1530, LLC ("Commenter"), by its attorneys, pursuant to Sections 1.415 and 1.420(d) of the Commission's Rules, hereby submits its comments and counterproposal in response to the Notice of Proposed Rule Making ("NPRM"), 1995 FCC Lexis 4605 (MM Bur. 1995), which looks to allotting Channel 251A to Hayden, Colorado. In support hereof, Commenter shows as follows:

A.

Introduction

1. In response to a petition for rule making filed by Thomas Broadcasting, the NPRM proposes to add Channel 251A at Hayden, Colorado, as that community's second local transmission outlet. Commenter herein demonstrates that the Commission would better fulfill its mandate to provide a "fair, efficient and equitable distribution of radio service" (47 USC § 307(b)) by allotting a superior frequency, Channel 251C, to Meeker, Colorado, the county seat of Rio Blanco County, as that community's first local transmission outlet.

B.

Argument

(i)

2. As demonstrated in the annexed Engineering Statement of Frederick D. Veihmeyer, Commenter's Consulting Engineer, Channel 251C can be allotted to Meeker in full compliance with the Commission's technical rules. Mr. Veihmeyer's study establishes that allotment of Channel 251C to Meeker will provide a first FM service to approximately 415 people and a second FM service to approximately 2590 people, as well as providing Meeker with its first transmission service. In short, Commenter's proposal would satisfy the important allocation priority of first local service, FM Channel Policies/Procedures, 90 FCC2d 88, 51 RR2d 807 (1982) (pars. 3 & 7). In contrast, allocation of another channel to Hayden would advance none of the allocation priorities -- Hayden has assigned to it Station KIDN-FM, which operates on Channel 240C3, and Hayden is served by Station KRAI-FM, a Class C FM station licensed to Craig, Colorado, about 15 miles west of Hayden. (Class C stations are presumed to extend about 60 miles, based on maximum facilities. FM Channel Policies, supra, 90 FCC2d at fn. 11.) In addition, another Class C channel -- Channel 273C -- is allotted to Craig though apparently unused. At all events, Hayden enjoys both a local transmission service and a choice of reception services.

(ii)

3. An additional established allocation priority -- other public interest matters -- also favors Meeker over Hayden. That

is, in analyzing the general public interest benefits from a proposed allotment, the Commission compares and weighs all relevant engineering and socio-economic factors, including the number of local services, relative sizes of communities and growth rate and relative sizes of new areas to be served. FM Channel Policies, *supra*, 90 FCC2d at 92, 51 RR2d at 811; FM Table of Allotments (Greenup, KY and Athens, OH), 2 FCC Rcd 4319, 4321 (M.M. Bur. 1987). Applying these comparative criteria augments Meeker's decisive advantage over Hayden.

4. Mr. Veihmeyer calculates that Commenter's proposed allotment to Meeker would provide 60 dbu service to approximately 29,330 more people than the NPRM's proposed allotment to Hayden. Moreover, based on recent growth patterns, the population difference is likely to increase. The Colorado Division of Local Government estimates that in 1993 approximately 750 more people lived in Meeker than in Hayden.¹; the Meeker/Hayden population ratio is 1.5 : 1. This is consistent with the last U.S. Census, which determined that in 1990 658 more people lived in Meeker than in Hayden.² While both communities are rebounding from decreases in their populations, Meeker is growing at a faster rate than Hayden. The following chart is instructive:

¹ Demographic Section, Colorado Division of Local Government, released November 21, 1994. A copy of the relevant excerpt is attached as Exhibit A.

² Rand McNally Commercial Atlas & Marketing Guide (1992), p. 277.

POPULATION

Meeker

1980 - 2356¹
1990 - 2098¹
1993 - 2318² (Est. 7/1/93)

Hayden

1980 - 1720¹
1990 - 1444¹
1993 - 1568² (Est. 7/1/93)

RATE OF CHANGE

Meeker

1980 - 1990 -11%
1990 - 1993 +10.5%
1980 - 1993 -1.6%

Hayden

1980 - 1990 -16.1%
1990 - 1993 +8.6%
1980 - 1993 -8.8%

Thus, Hayden's percentage loss of population from 1980 to 1993 is 5½ times that of Meeker, a factor the Commission should consider in deciding among competing allotment proposals. FM Channel Policies, supra, 90 FCC2d at 92 (fn. 8); Cosmopolitan Enterprises, Inc., 15 FCC2d 650, 14 RR2d 1029 (Rev. Bd. 1968) (par. 14).

5. Meeker also eclipses Hayden in the growth of housing units. While the number of housing units in Meeker Township has increased from 981 in 1980 to 1031 in 1990, the number of housing units in Hayden Township has decreased during the same period from 610 in 1980 to 583 in 1990. U.S. Department Of Commerce, Economics And Statistics Administration, Bureau of the Census,

1990 Population And Housing Counts, Colorado. Similarly, the number of housing units in the census-designated Meeker Division has increased from 1573 in 1980 to 1679 in 1990, while the number of housing units in the Meeker Division has showed virtually no growth during the same period with 910 units in 1980 and 915 units in 1990. Id.

6. Finally, Meeker is a county seat, whereas Hayden is not a governmental center. This constitutes a formidable, further factor which favors Meeker. See, Cosmopolitan Enterprises, Inc., supra. (307(b) issue determined in favor of county seat lacking a local transmission outlet over community (not a county seat) in a county that had a local transmission outlet).

C.


Conclusion

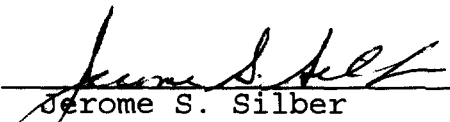
7. The foregoing considerations make clear that the allotment of wide-area Channel 251C to Meeker is preferable to adding a local channel, Channel 251A, to Hayden. A Meeker assignment is a more efficient use of the spectrum in consonance with Baker v. FCC, 834 F.2d 181, 183 (n.4) (D.C. Cir. 1987) ("the need for radio service is assessed primarily in light of the facilities presently available in the proposed communities and their relative populations"). Commenter hereby indicates its intention promptly to file an application for Channel 251C at Meeker, Colorado if the allotment requested herein is adopted by the Commission.

WHEREFORE, Commenter requests that the Commission should deny Thomas Broadcasting's proposal and grant the counter-proposal by amending the Table of Allotments to add Channel 251C at Meeker, Colorado.

Respectfully submitted,

1530, LLC

By 
Jerome S. Boros

By 
Jerome S. Silber

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575 Madison Avenue
New York, New York 10022
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Its Attorneys

Dated: September 5, 1995

EXHIBIT
ENGINEERING STATEMENT
RE: COMMENTS IN MM DOCKET 95-106

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Prepared by
Lohnes and Culver Washington, D.C.
September, 1995

**EXHIBIT
ENGINEERING STATEMENT
RE: COMMENTS IN MM DOCKET 95-106**

INTRODUCTION

This engineering statement was prepared on behalf of 1530, LLC, in support of a counterproposal to the Notice of Proposed Rule Making in MM Docket 95-106, Re: RM-8655. The notice proposes the allotment of Channel 251A to Hayden, Colorado-- as that community's second FM allotment--resulting in the following change in the FM Table of Allotments.

CITY	PRESENT	PROPOSED
Hayden, Colorado	240C3	240C3, 251A

All information contained in or attached to this statement was prepared in accordance with the current rules of the Federal Communications Commission.

ALLOCATION STUDY AND COUNTERPROPOSAL

The office of the undersigned has determined that in lieu of the allotment of Channel 251A to Hayden, Colorado, as a second FM channel, Channel 251C can be allotted to the community of Meeker, Colorado in full compliance with the separation requirements of the Commission's Rules. The allotment of Channel 251C to Meeker, Colorado will bring that community its first local broadcast service.

Hayden, Colorado currently has assigned to it a Class C3 FM station and Hayden is located approximately 15 miles east of Craig, Colorado which has assigned to it two 100 kW Class C FM operations. Meeker has no station assigned to it--AM, FM or TV--and it has a 1990 census population of 2,098, while Hayden is approximately two-thirds the size, with a 1990 census population of 1,444.

Attached to this statement as Figure 1 is a tabulation listing the results of an allocation study of the proposed allotment of Channel 251C to Meeker, Colorado. The study was conducted using the geographical coordinates of the community of Meeker, at North Latitude 40° 02' 29" West Longitude 107° 55' 00". The study demonstrates that Channel 251C can be allotted to Meeker without the imposition of a site restriction.

OTHER FM BROADCAST SERVICES

An analysis of the availability of FM services to the potential service areas of the proposed allotment of 251A at Hayden, CO., and the 251C allotment proposed herein for Meeker was conducted with the following results.

The maps of Figure 2 and 3 show the potential 60 dBu service areas of the proposed allotments of 251A to Hayden, CO., and 251C to Meeker, CO., along with other available 60 dBu FM services. The 60 dBu contour for the proposed 251A allotment at Hayden, CO., was based on the reference transmitter location and maximum Class A facilities of 6 kW at 100 meters above average terrain. The 60 dBu contour for the proposed 251C allotment at Meeker was based on a transmitter location at an existing mountain top electronic site approximately one mile west of Meeker. The proposed facilities are 100 kW at 483 meters above average terrain. All of the other 60 dBu contours shown on Figures 2 and 3 are based on the licensed facilities of the stations identified by call letter on the respective maps. All contours were predicted in accordance with Section 73.313 of the Commission's Rules with contour distances predicted every 15 degrees of azimuth. The licensed facilities of each station are tabulated on Figure 4.


A population analysis of the proposed service areas along with an analysis of the areas receiving a first or second FM service as

a result of the proposed allotments was conducted and the results are tabulated on Figure 5.

The populations were determined by transferring the contours to a minor civil division map of Colorado and counting the populations assuming uniform distribution within the divisions based on the 1990 census of the United States.

As shown on Figures 2 and 5, the proposed allotment of Channel 251C to Meeker will bring a first and second FM service to areas west of Meeker and will provide Meeker with its first local broadcast service.

Respectfully submitted,
LOHNES AND CULVER

by 
Frederick D. Veihmeyer

September, 1995

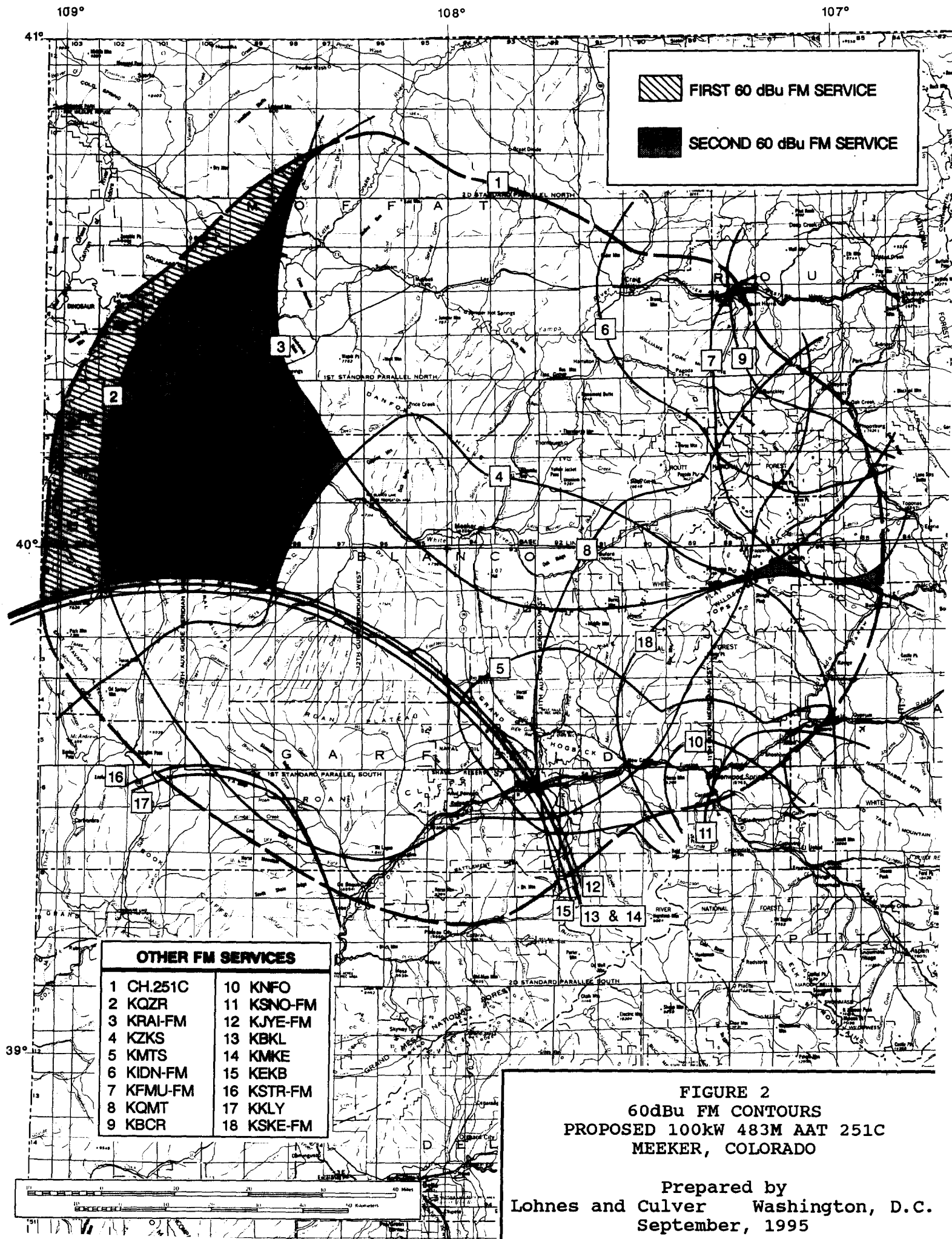
FIGURE 1
ALLOCATION STUDY
PROPOSED ALLOTMENT OF CHANNEL 251C
MEEKER, COLORADO

<u>CHANNEL/ CLASS</u>	<u>CALL/STATION</u>	<u>LOCATION CITY, STATE</u>	<u>SEPARATION IN km</u> <u>ACTUAL⁽¹⁾ REQUIRED⁽²⁾</u>	
248	No stations within required separation plus 50 km			
249A	KSPN-FM Lic.	Aspen, CO.	129.67	95.0
250	No stations within required separation plus 50 km			
251C2	PADD	Clark, CO.	112.47	249.0 ⁽³⁾
251C	KKFM Lic.	Colorado Springs, CO.	299.88	290.0
252C2	KKYY C.P.	Gunnison, CO.	189.55	176.0
253	No stations within required separation plus 50 km			
254	No stations within required separation plus 50 km			

Notes:

- (1) Distance separation between stations calculated in accordance with §73.208 of the FCC Rules.
- (2) Required minimum distance separation for FM stations per §73.207.
- (3) To Channel 225C2 per Commission action in MM Docket 95-107.

Prepared by
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September, 1995



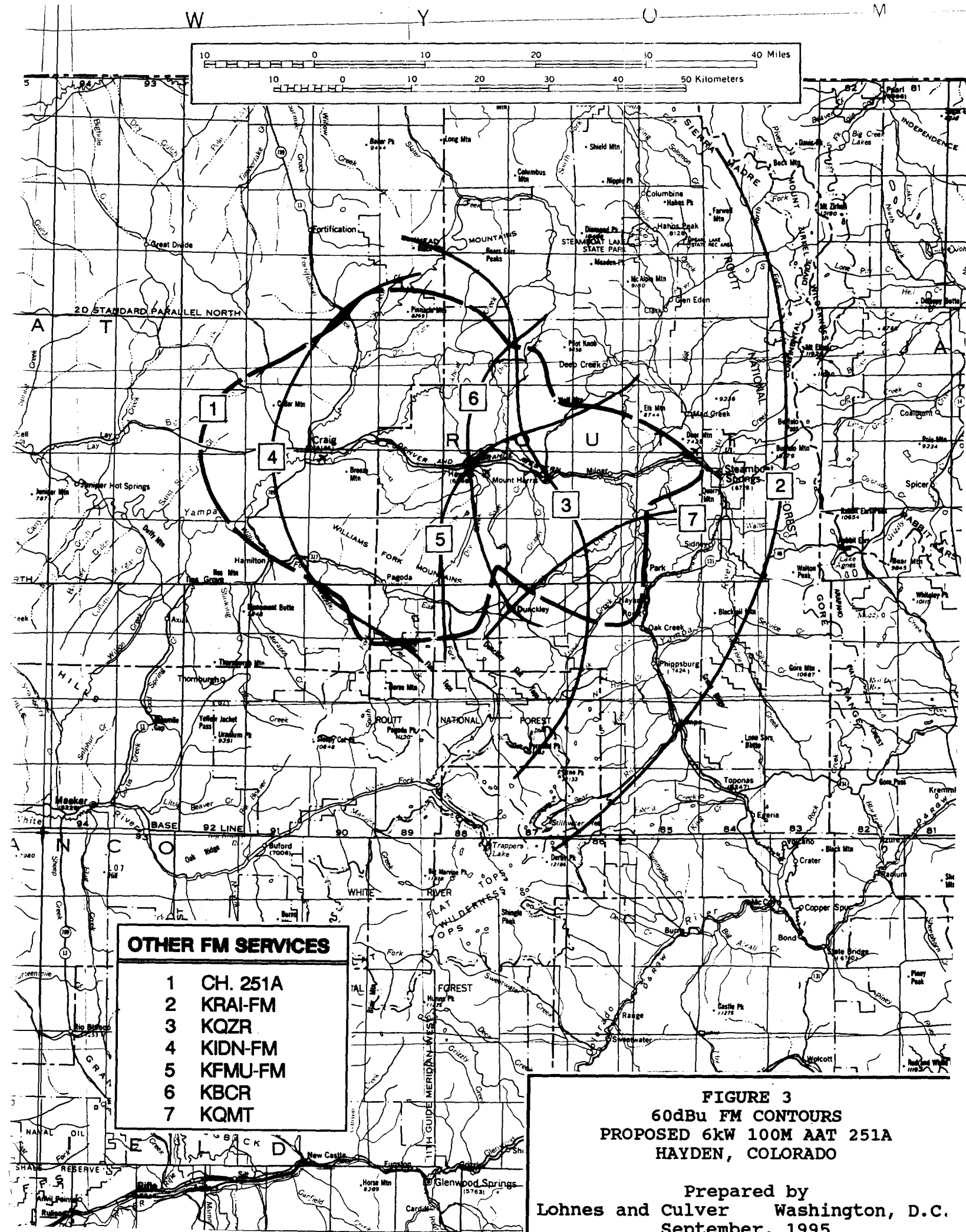


FIGURE 3
60dBu FM CONTOURS
PROPOSED 6kW 100M AAT 251A
HAYDEN, COLORADO

Prepared by
 Lohnes and Culver Washington, D.C.
 September, 1995

**FIGURE 4
FM STATIONS
SHOWN ON FIGURES 2 AND 3**

Proposed	Ch.251C	100kW	483M AAT	Meeker, CO.
KQZR	Ch.273C	100kW	384M AAT	Craig, CO.
KRAI-FM	Ch.229C1	100kW	299M AAT	Craig, CO.
KZKS	Ch.287C	60kW	743M AAT	Rifle, CO.
KMTS	Ch. 256C3	10kW	-90M AAT	Glenwood Springs, CO.
KIDN-FM	Ch. 240C3	1.8kW	360M AAT	Hayden, CO.
KFMU-FM	Ch. 281C3	1.4kW	327M AAT	Oak Creek, CO.
KQMT	Ch. 268C	37kW	674M AAT	Eagle, CO.
KBCR	Ch. 244A	.87kW	155M AAT	Steamboat Springs, CO.
KNFO	Ch. 291A	2kW	111M AAT	Basalt, CO.
KSNO-FM	CH. 280A	2.5kW	99M AAT	Snowmass Village, CO.
KJYE-FM	CH. 222C	100kW	420M AAT	Grand Junction, CO.
KBKL	CH. 300C	100kW	395M AAT	Grand Junction, CO.
KMIKE	CH. 282C	100kW	395M AAT	Grand Junction, CO.
KEKB	CH. 260C	79kW	422M AAT	Fruita, CO.
KSTR-FM	CH. 241C	100kW	335M AAT	Montrose, CO.
KKLY	CH. 236C	100kW	434M AAT	Delta, CO.
KSKE-FM	CH.284C1	100kW	137M AAT	Vail, CO.

Prepared by
Lohnes and Culver Washington, D.C.
September, 1995

FIGURE 5
POPULATION AND AREA DATA

PROPOSED MEEKER, CO. 251C

	<u>POPULATION</u>	<u>AREA</u>
60 dBu Contour	41,870	22,790 SQ.KM.
Area receiving first 60 dBu FM Service	415	920 SQ.KM.
Area receiving second 60 dBu FM Service	2,590	2,620 SQ.KM.

PROPOSED HAYDEN, CO. 251A

	<u>POPULATION</u>	<u>AREA</u>
60 dBu Contour	12,540	2,430 SQ.KM.
Area receiving first 60 dBu FM Service	0	0 SQ.KM.
Area receiving second 60 dBu FM Service	0	0 SQ.KM.

Prepared by
Lohnes and Culver Washington, DC
September, 1995

TABLE 5. POPULATION ESTIMATES FOR COUNTIES AND MUNICIPALITIES, 1980-1993.


COUNTIES & Places	April 1980	July 1985	April 1990	July 1991	July 1992	July 1993	AVERAGE ANNUAL PERCENT		
							1980-85	1985-90	1990-93
PITKIN COUNTY	10,338	11,316	12,661	12,916	13,232	13,841	1.74	2.39	2.78
Aspen	3,678	3,513	5,049	5,102	5,180	5,404	-0.87	7.94	2.11
Basalt (MCP)	0	0	126	131	178	190			
Snowmass Village	999	1,297	1,449	1,473	1,495	1,544	5.10	2.36	1.97
Unincorp. Area	5,661	6,506	6,037	6,210	6,379	6,703	2.69	-1.50	3.27
PROWERS COUNTY	13,070	14,374	13,347	12,910	13,029	13,291	1.83	-1.55	-0.13
Granada	557	600	513	496	500	515	1.43	-3.24	0.12
Hartman	122	124	108	105	107	109	0.31	-2.87	0.28
Holly	969	988	877	845	854	868	0.37	-2.48	-0.32
Lamar	7,713	8,839	8,343	8,072	8,145	8,292	2.63	-1.21	-0.19
Wilcy	425	459	406	393	396	405	1.48	-2.55	-0.08
Unincorp. Area	3,284	3,364	3,100	2,999	3,027	3,102	0.46	-1.71	0.02
PUEBLO COUNTY	125,972	121,907	123,051	123,206	123,904	125,504	-0.62	0.20	0.61
Boone	431	398	341	343	344	348	-1.51	-3.20	0.63
Pueblo	101,686	97,910	98,640	98,741	99,302	100,548	-0.72	0.16	0.59
Rye	232	201	168	169	168	171	-2.70	-3.71	0.55
Unincorp. Area	23,623	23,398	23,902	23,953	24,090	24,437	-0.18	0.45	0.68
RIO BLANCO COUNTY	6,255	6,590	6,051	6,249	6,591	6,667	1.00	-1.78	3.03
Mocker	2,356	2,131	2,098	2,191	2,301	2,318	-1.89	-0.33	3.12
Rangely	2,113	2,520	2,353	2,378	2,506	2,537	3.41	-1.43	2.34
Unincorp. Area	1,786	1,939	1,600	1,680	1,784	1,812	1.58	-3.96	3.90
RIO GRANDE COUNTY	10,511	11,546	10,770	11,105	11,187	11,400	1.80	-1.45	1.76
Center (MCP)	0	0	4	4	4	4	—	—	0.00
Del Norte	1,709	1,803	1,674	1,719	1,728	1,762	1.03	-1.55	1.59
Monte Vista	3,902	4,338	4,324	4,450	4,472	4,546	2.04	-0.07	1.55
South Fork			361		377	383	—	—	1.84
Unincorp. Area	4,900	5,405	4,407	4,932	4,606	4,705	1.89	-4.21	2.03

TABLE 5. POPULATION ESTIMATES FOR COUNTIES AND MUNICIPALITIES, 1980 - 1993.

COUNTIES & Places	April 1980	July 1985	April 1990	July 1991	July 1992	July 1993	AVERAGE ANNUAL PERCENT		
							1980-85	1985-90	1990-93
ROUTT COUNTY	13,404	14,196	14,088	14,624	14,919	15,553	1.10	-0.16	3.09
Hayden	1,720	1,549	1,444	1,499	1,503	1,568	-1.97	-1.47	2.57
Oak Creek	929	741	673	698	685	715	-4.22	-2.01	1.88
Steamboat Springs	5,098	6,268	6,695	6,951	7,199	7,517	4.01	1.40	3.63
Yampa	472	355	317	326	321	333	-5.28	-2.36	1.53
Unincorp. Area	5,185	5,283	4,959	5,150	5,211	5,420	0.36	-1.32	2.77
SAGUACHE COUNTY	3,935	4,400	4,619	4,893	4,989	5,070	2.15	1.03	2.91
Bonanza City	8	12	16	17	17	17	8.03	6.24	1.88
Center (MCP)	1,630	1,896	1,959	2,071	2,114	2,177	2.92	0.69	3.30
Crestone	54	45	55	58	60	61	-3.41	4.32	3.24
Moffat	105	109	99	105	107	108	0.71	-2.01	2.71
Saguache	656	613	584	620	631	633	-1.28	-1.02	2.51
Unincorp. Area	1,482	1,725	1,906	2,022	2,060	2,074	2.93	2.12	2.63
SAN JUAN COUNTY	833	763	745	704	566	526	-1.66	-0.50	-10.16
Silverton	794	743	716	677	544	505	-1.26	-0.78	-10.19
Unincorp. Area	39	20	29	27	22	21	-11.94	8.14	-9.45
SAN MIGUEL COUNTY	3,192	3,189	3,653	4,077	4,467	4,700	-0.02	2.90	8.06
Norwood	478	449	429	456	519	510	-1.19	-0.95	5.47
Ophir	38	54	69	73	84	82	6.92	5.30	5.45
Sawpit	41	40	36	42	47	46	-0.47	-2.19	7.83
Telluride	1,047	1,030	1,309	1,411	1,457	1,360	-0.31	5.18	1.18
Unincorp. Area	1,588	1,616	1,810	2,095	2,360	2,702	0.33	2.42	13.12
SEDGWICK COUNTY	3,266	2,991	2,690	2,550	2,507	2,509	-1.66	-2.21	-2.12
Julesburg	1,528	1,438	1,295	1,227	1,210	1,208	-1.15	-2.18	-2.12
Ovid	439	381	349	330	323	323	-2.66	-1.83	-2.35
Sedgwick	258	207	183	174	171	172	-4.11	-2.56	-1.89
Unincorp. Area	1,041	965	863	819	803	806	-1.43	-2.32	-2.08

CERTIFICATE OF SERVICE

I, Naomi Dann, a secretary employed by Rosenman & Colin, LLP, certify that on this 5th day of September, 1995 have sent by pre-paid, first-class mail or have caused to be hand-delivered, as indicated, a copy of the foregoing COMMENTS AND COUNTERPROPOSAL to each person on the attached List I.



Naomi Dann

List I

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